

The Gazette of India

EXTRAORDINARY
PART II—Section 1
PUBLISHED BY AUTHORITY

No. 43] NEW DELHI, MONDAY, SEPTEMBER 17, 1962/BHADRA 26, 1884

MINISTRY OF LAW
(Legislative Department)

New Delhi, the 17th September, 1962/Bhadra 26, 1884 (Saka)

The following Act of Parliament received the assent of the President on the 15th September, 1962, and is hereby published for general information:—

THE RESERVE BANK OF INDIA (AMENDMENT) ACT, 1962

No. 35 of 1962

[15th September, 1962]

An Act further to amend the Reserve Bank of India Act, 1934 and to make certain consequential amendments in the State Bank of India Act, 1955.

Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. This Act may be called the Reserve Bank of India (Amendment) Act, 1962. Short title.

2. To sub-section (2) of section 8 of the Reserve Bank of India Act, 1934 (hereinafter referred to as the principal Act), the following proviso shall be added, namely:— Amendment of section 8.

“Provided that the Central Board may, if in its opinion it is necessary in the public interest so to do, permit the

Governor or a Deputy Governor to undertake, at the request of the Central Government or any State Government, such part-time honorary work, whether related to the purposes of this Act or not, as is not likely to interfere with his duties as Governor or Deputy Governor, as the case may be."

Amendment
of section 17.

3. In section 17 of the principal Act,—

(a) in sub-clause (a) of clause (2), for the words "maturing within ninety days from the date of such purchase or re-discount, exclusive of days of grace;" the following words shall be substituted, namely:—

"maturing.—

(i) in the case of bills of exchange and promissory notes arising out of any such transaction relating to the export of goods from India, within one hundred and eighty days, and

(ii) in any other case, within ninety days,

from the date of such purchase or re-discount, exclusive of days of grace;"

(b) in clause (3), for sub-clause (b), the following sub-clause shall be substituted, namely:—

"(b) the purchase, sale and re-discount of bills of exchange (including treasury bills) drawn in or on any place in any country outside India which is a member of the International Monetary Fund and maturing,—

(i) in the case of bills of exchange arising out of any *bona fide* transaction relating to the export of goods from India, within one hundred and eighty days, and

(ii) in any other case, within ninety days,

from the date of such purchase or re-discount:

Provided that no such purchase, sale or re-discount shall be made in India except with a scheduled bank or a State co-operative bank."

(c) after clause (3), the following clause shall be inserted, namely:—

"(3A) the making to any scheduled bank or State co-operative bank, of loans and advances, against promissory notes of such bank, repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days;

Provided that the borrowing bank furnishes a declaration in writing, to the effect that—

(i) it holds bills of exchange arising out of any transaction relating to the export of goods from India of a value not less than the amount of such loans or advances,—

(a) drawn in India and on any place in any country outside India which is a member of the International Monetary Fund or in any other country notified in this behalf by the Bank in the Gazette of India, and

(b) maturing not later than one hundred and eighty days from the date of the loan or advance; and

(ii) it will, so long as any part of such loans and advances remains unpaid, continue to hold such bills of exchange of a value not less than the amount of such loans or advances outstanding for the time being;”;

(d) to clause (4), the following proviso shall be added, namely:—

“Provided that loans and advances made against the security of bills of exchange and promissory notes arising out of any transaction relating to the export of goods from India shall be repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days.”.

4. In section 42 of the principal Act,—

Amendment
of section 42

(a) in sub-section (1),—

(i) for the words “five per cent. of the demand liabilities and two per cent. of the time liabilities”, the words “three per cent. of the total of the demand and time liabilities” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Bank may, by notification in the Gazette of India, increase the said rate to such higher rate as may be specified in the notification so however that the rate shall not be more than fifteen per cent. of the total of the demand and time liabilities.”;

(iii) in the *Explanation*, in clause (c), for the words and brackets "Refinance Corporation for Industry (Private) Limited", the words "Refinance Corporation for Industry Limited" shall be substituted;

(b) in sub-section (1A),—

(i) for the words "rates specified in the notification, such additional balance being calculated with reference to the excess of the demand and time liabilities of the bank as shown in the return referred to in sub-section (2) over its demand and time liabilities", the words "rate specified in the notification, such additional balance being calculated with reference to the excess of the total of the demand and time liabilities of the bank as shown in the return referred to in sub-section (2) over the total of its demand and time liabilities" shall be substituted;

(ii) the proviso shall be omitted;

(c) after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1AA) Notwithstanding anything contained in sub-section (1) or sub-section (1A), it shall not be necessary for any scheduled bank to maintain with the Bank any balance which shall be more than fifteen per cent. of the total of its demand and time liabilities as shown in the return referred to in sub-section (2).";

(d) in sub-section (1B), the following proviso shall be inserted at the end, namely:—

"Provided further that where the Bank does not, under sub-section (5), demand the payment of the penalty imposed by sub-section (3), it may pay interest at such rate or rates as may be determined by the Bank from time to time on the amount actually maintained with it by the scheduled bank, notwithstanding that such amount is less than the balance required to be maintained in pursuance of a notification issued under the proviso to sub-section (1) or under sub-section (1A).";

(e) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) (a) The penalties imposed by sub-sections (3) and (4) shall be payable within a period of fourteen days from the date on which a notice issued by the Bank demanding

the payment of the same is served on the scheduled bank, and in the event of a failure of the scheduled bank to pay the same within such period, may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting bank is situated, such direction to be made only upon an application made in this behalf to the court by the Bank;

(b) when the court makes a direction under clause (a), it shall issue a certificate specifying the sum payable by the scheduled bank and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit;

(c) notwithstanding anything contained in this section, if the Bank is satisfied that the defaulting bank had sufficient cause for its failure to comply with the provisions of sub-section (1), (1A) or (2), it may not demand the payment of the penal interest or the penalty, as the case may be.”.

5. In section 43A of the principal Act, after the words and figures “or section 43”, wherever they occur, the words and figures and letter “or in pursuance of the provisions of Chapter IIIA” shall be inserted. Amendment of section 43A.

6. In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:— Insertion of new Chapter IIIA.

“CHAPTER IIIA

COLLECTION AND FURNISHING OF CREDIT INFORMATION

45A. In this Chapter, unless the context otherwise requires,— Definitions.

(a) “banking company” means a banking company as defined in section 5 of the Banking Companies Act, 1949, and includes the State Bank of India or any other banking or financial institution notified by the Central Government in this behalf;

(b) “borrower” means any person to whom any credit limit has been sanctioned by any banking company, whether availed of or not, and includes—

(i) in the case of a company or corporation, its subsidiaries;

(ii) in the case of a Hindu undivided family, any member thereof or any firm in which such member is a partner;

(iii) in the case of a firm, any partner thereof or any other firm in which such partner is a partner; and

(iv) in the case of an individual, any firm in which such individual is a partner;

(c) "credit information" means any information relating to—

(i) the amounts and the nature of loans or advances and other credit facilities granted by a banking company to any borrower or class of borrowers;

(ii) the nature of security taken from any borrower for credit facilities granted to him; and

(iii) the guarantee furnished by a banking company for any of its customers.

Power of
Bank to
collect credit
information.]

45B. The Bank may—

(a) collect, in such manner as it may think fit, credit information from banking companies; and

(b) furnish such information to any banking company in accordance with the provisions of section 45D.

Power to
call for re-
turns con-
taining cre-
dit informa-
tion.

45C. (1) For the purpose of enabling the Bank to discharge its functions under this Chapter, it may at any time direct any banking company to submit to it such statements relating to such credit information and in such form and within such time as may be specified by the Bank from time to time.

(2) A banking company shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any instrument regulating the constitution thereof or in any agreement executed by it, relating to the secrecy of its dealings with its constituents, be bound to comply with any direction issued under sub-section (1).

Procedure
for furnish-
ing credit
information
to banking
companies.

45D. (1) A banking company may, in connection with any financial arrangement entered into or proposed to be entered into by it, with any person, make an application to the Bank in such form as the Bank may specify requesting it to furnish the applicant with such credit information as may be specified in the application.

(2) On receipt of an application under sub-section (1), the Bank shall, as soon as may be, furnish the applicant with such credit information relating to the matters specified in the application, as may be in its possession:

Provided that the information so furnished shall not disclose the names of the banking companies which have submitted such information to the Bank.

(3) The Bank may in respect of each application levy such fees, not exceeding twenty-five rupees, as it may deem fit for furnishing credit information.

45E. (1) Any credit information contained in any statement submitted by a banking company under section 45C or furnished by the Bank to any banking company under section 45D, shall be treated as confidential and shall not, except for the purposes of this Chapter, be published or otherwise disclosed.

Disclosure of
information
prohibited.

(2) Nothing in this section shall apply to—

(a) the disclosure by any banking company, with the previous permission of the Bank, of any information furnished to the Bank under section 45C;

(b) the publication by the Bank, if it considers necessary in the public interest so to do, of any information collected by it under section 45C, in such consolidated form as it may think fit without disclosing the name of any banking company or its borrowers.

(3) Notwithstanding anything contained in any law for the time being in force, no court, tribunal or other authority shall compel the Bank or any banking company to produce or to give inspection of any statement submitted by that banking company under section 45C or to disclose any credit information furnished by the Bank to that banking company under section 45D.

45F. No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions of this Chapter.

Certain
claims for
compensation
barred.

45G. (1) If any banking company—

Penalties

(a) fails to submit any statement required under section 45C or submits under that section a statement which is false in any material particular; or

(b) fails to comply with any condition imposed under this Chapter,

every director or other officer of the company and every other person who is knowingly a party to the breach shall be punishable with fine which may extend to two thousand rupees.

(2) If any person discloses any credit information, the disclosure of which is prohibited under section 45E, he shall be punishable with imprisonment which may extend to six months

or with fine which may extend to one thousand rupees or with both.”.

Amendment
of the State
Bank of
India Act,
1955.

7. In the State Bank of India Act, 1955,—

23 of 1955.

(i) in section 33, in clause (ixb), after the words “classes of industries”, the words “or in such business or trade or classes of business or trade” shall be inserted;

(ii) in section 34, to sub-section (3), the following proviso shall be added, namely:—

“Provided that nothing in sub-clause (ii) of clause (b) shall apply where the State Bank holds by way of a collateral security any negotiable instrument or security which does not mature within six months from the date aforesaid in respect of any loan, advance or cash credit sanctioned under this Act.”.

The following Act of Parliament received the assent of the President on the 16th September, 1962, and is hereby published for general information:—

THE BANKING COMPANIES (AMENDMENT) ACT, 1962

No. 36 of 1962

[16th September, 1962]

An Act further to amend the Banking Companies Act, 1949

Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. This Act may be called the Banking Companies (Amendment) Act, 1962.

2. In section 11 of the Banking Companies Act, 1949 (hereinafter referred to as the principal Act),—

10 of 1949.

Amendment
of section 11.

(i) in sub-section (2), in clause (b), for the words beginning with “the banking company shall” and ending with “required by clause (a)”, the following shall be substituted, namely:—

“the banking company shall deposit and keep deposited with the Reserve Bank either in cash or in the form of unencumbered approved securities, or partly in cash and partly in the form of such securities—

(i) an amount which shall not be less than the minimum required by clause (a); and

(ii) as soon as may be after the expiration of each calendar year, an amount calculated at twenty per cent of its profit for that year in respect of all business transacted through its branches in India, as disclosed in the profit and loss account prepared with reference to that year under section 29:";

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Notwithstanding anything contained in sub-section (2), the Central Government may, on the recommendation of the Reserve Bank, and having regard to the adequacy of the amounts already deposited and kept deposited by a banking company under sub-section (2), in relation to its deposit liabilities in India, declare by order in writing that the provisions of sub-clause (ii) of clause (b) of sub-section (2) shall not apply to such banking company for such period as may be specified in the order.";

(iii) in sub-section (3), in clause (ii), the following proviso shall be inserted at the end, namely:—

"Provided further that in the case of every banking company to which this clause applies and which commences banking business for the first time after the commencement of the Banking Companies (Amendment) Act, 1962, the value of its paid-up capital shall not be less than five lakhs of rupees."

3. In section 17 of the principal Act,—

Amendment
of section
17.

(i) in sub-section (1), the words "unless the amount in such fund together with the amount in the share premium account is not less than its paid-up capital," shall be omitted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), the Central Government may, on the recommendation of the Reserve Bank and having regard to the adequacy of the paid-up capital and reserves of a banking company in relation to its deposit liabilities, declare by order in writing that the provisions of sub-section (1) shall not apply to the banking company for such period as may be specified in the order:

Provided that no such order shall be made unless, at the time it is made, the amount in the reserve fund under sub-section (1), together with the amount in the share premium

account is not less than the paid-up capital of the banking company.”.

Amendment
of section
18.

4. In section 18 of the principal Act, for the words “two per cent. of its time liabilities in India and five per cent. of its demand liabilities in India,” the words “three per cent. of the total of its time and demand liabilities in India,” shall be substituted.

Amendment
of section
22.

5. In section 22 of the principal Act, in sub-section (3), in clause (c), after the words “a company incorporated outside India that”, the words “the carrying on of banking business by such company in India will be in the public interest and that” shall be inserted.

Amendment
of section
24.

6. In section 24 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) (a) Notwithstanding anything contained in sub-section (1) or in sub-section (2), after the expiry of two years from the commencement of the Banking Companies (Amendment) Act, 1962,—

(i) a scheduled bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934, and ² of 1934.

(ii) every other banking company, in addition to the cash reserve which it is required to maintain under section 18, shall maintain in India in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than 25 per cent. of the total of its demand and time liabilities in India;

(b) in computing the amount for the purposes of clause (a),—

(i) the deposit required under sub-section (2) of section 11 to be made with the Reserve Bank by a banking company incorporated outside India, and

(ii) any cash or balances maintained in India by a banking company other than a scheduled bank with itself or in current account with the Reserve Bank or the State Bank of India or with any other bank which may be notified in this behalf by the Central Government, in excess of the aggregate of the cash or balance or both required to be maintained under section 18, and

(iii) any balances maintained by a scheduled bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of

India Act, 1934, and any balances maintained by a scheduled bank with the State Bank of India or with any other bank which may be notified in this behalf by the Central Government,

shall be deemed to be cash maintained in India.”

7. In section 35B of the principal Act, in sub-section (2), for the figures and word “268, 269, 310, 311 and 388”, the figures, words and brackets “268 and 269, the proviso to sub-section (3) of section 309, sections 310 and 311, the proviso to section 387, and section 388” shall be substituted. Amendment
of section
35B.

8. In section 51 of the principal Act,—

(i) after the figures “35”, the figures and letter “35A” shall be inserted; and Amendment
of section
51.

(ii) the figures and letter “37, 44B” shall be omitted.

R. C. S. SARKAR,
Secy. to the Govt. of India.

